

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
OF THE STATE OF MONTANA

In the matter of the proposed)	NOTICE OF PUBLIC HEARING
adoption of New Rule I Quality)	ON PROPOSED ADOPTION
Educator Payments - General Fund,)	AND AMENDMENT
New Rule II At Risk Student Payments -)	
General Fund, New Rule III Indian)	
Education for All Payments - General)	
Fund, New Rule IV American Indian)	
Achievement Gap Payments - General)	
Fund, and the proposed amendment of)	
ARM 10.7.106, 10.7.106A, 10.7.113)	
through 10.7.115, 10.10.301,)	
10.10.301B, 10.10.301D, 10.10.311,)	
10.10.318, 10.10.610, 10.10.611)	
through 10.10.615, 10.15.101,)	
10.16.3804, 10.16.3811, 10.16.3812,)	
10.16.3816, 10.20.102, 10.20.104,)	
10.20.105, 10.21.101B, 10.21.101E,)	
10.21.101G, 10.21.101I, 10.21.102B,)	
10.21.102E, 10.22.102, 10.22.204,)	
10.23.102 through 10.23.104,)	
10.23.108, 10.30.403, 10.30.406, and)	
10.30.415, relating to School Finance)	

TO: All Concerned Persons

1. On December 6, 2006, at 9:00 a.m., a public hearing will be held in the Superintendent's conference room at 1227 11th Avenue, Helena, Montana, to consider the adoption and amendment of the above-stated rules.

2. The State Superintendent will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the State Superintendent's office no later than 5:00 p.m. on November 20, 2006, to advise us of the nature of the accommodation that you need. Please contact Beverly Marlow, Legal Division, P.O. Box 202501, Helena, MT 59620-2501, telephone: (406) 444-3172, TDD number: (406) 444-0235, FAX: (406) 444-2893, e-mail opirules@mt.gov.

3. The proposed new rules provide as follows:

NEW RULE I. QUALITY EDUCATOR PAYMENTS - GENERAL FUND

(1) The Superintendent of Public Instruction will determine and report the quality educator payment for each school district and special education cooperative by March 1 for the ensuing school year.

(2) The number of FTE used to determine the payment for FY 20XX+2 will be based on the full time equivalent (FTE) personnel assignments and associated FTE units reported by the district to the Superintendent of Public Instruction on the annual data collection report submitted in the fall of 20XX.

(3) The FTE used to calculate the payment will not include educators employed under emergency authorization granted by the State Superintendent. The FTE used to calculate the payment will include other licensed educators and licensed professionals, providing the employee holds a position for which the accreditation standards require such licensure and eligible licensed professionals as defined in 20-9-327, MCA.

(4) Educators without a valid license will not be considered in the FTE for the payment. A license must be current as of December 1 of the school year in which the employee is reported in order to be valid for purposes of the quality educator payment calculation for the following fiscal year.

(5) The Superintendent of Public Instruction will provide an opportunity for district officials to review the FTE information submitted on the annual data collection. Changes to FTE reporting used for the quality educator payment calculation will not be accepted after December 31 except in cases of significant reporting error, as determined by the Superintendent of Public Instruction.

(6) Payments will be distributed to school districts by the Superintendent of Public Instruction on the schedule for BASE aid distributions provided in 20-9-344, MCA.

AUTH: 20-3-106, MCA

IMP: 20-9-327, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to adopt New Rule I to implement 20-9-327, MCA which was enacted in the 2005 Special Session under SB 1. The bill added a new payment type to the school district's general fund.

NEW RULE II AT RISK STUDENT PAYMENTS - GENERAL FUND

(1) The Superintendent of Public Instruction will determine and report the at-risk student payment for each school district by March 1 for the ensuing school year.

(2) Payments will be distributed to school districts by the Superintendent of Public Instruction on the schedule for BASE aid distributions provided in 20-9-344, MCA.

AUTH: 20-3-106, MCA

IMP: 20-9-328, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to adopt New Rule II to implement 20-9-328, MCA which was enacted in the 2005 Special Session under SB 1. The bill added a new payment type to the school district's general fund.

NEW RULE III INDIAN EDUCATION FOR ALL PAYMENTS - GENERAL

FUND (1) The Superintendent of Public Instruction will determine and report the Indian Education for All payment for each school district by March 1 for the ensuing school year.

(2) Payments will be distributed to school districts by the Superintendent of Public Instruction on the schedule for BASE aid distributions provided in 20-9-344, MCA.

AUTH: 20-3-106, MCA

IMP: 20-9-329, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to adopt New Rule III to implement 20-9-329, MCA which was enacted in the 2005 Special Session under SB 1. The bill added a new payment type to the school district's general fund.

NEW RULE IV AMERICAN INDIAN ACHIEVEMENT GAP PAYMENTS - GENERAL FUND (1) The Superintendent of Public Instruction will determine and report the American Indian achievement gap payment for each school district by March 1 for the ensuing school year.

(2) The number of students used to determine the payment for FY 20XX+2 will be the number of American Indian students enrolled in the district as reported on the fall enrollment count submitted by the district to the Superintendent of Public Instruction in the fall of 20XX.

(3) The Superintendent of Public Instruction will provide an opportunity for district officials to review the enrollment information submitted on the fall enrollment report. Changes to the enrollment report information used for the American Indian achievement gap payment will not be accepted after December 31 except in cases of significant reporting error, as determined by the Superintendent of Public Instruction.

(4) Payments will be distributed to school districts by the Superintendent of Public Instruction on the schedule for BASE aid distributions provided in 20-9-344, MCA.

AUTH: 20-3-106, MCA

IMP: 20-9-330, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to adopt New Rule IV to implement 20-9-330, MCA which was enacted in the 2005 Special Session under SB 1. The bill added a new payment type to the school district's general fund.

4. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

10.7.106 CONTENTS AND LIMITATIONS OF PUPIL TRANSPORTATION CONTRACTS (1) through (7) remain the same.

(8) Contracts for students with transportation listed as a related service on

their individualized education plans will receive the following state/county reimbursement:

(a) Students who live three miles or less from the school or bus stop will be eligible for the minimum state/county reimbursement rate of ~~25~~ 35 cents per day;

(b) through (12) remain the same.

(13) By July 10, or as received from the district, the county superintendent transmits the original copy of each transportation contract to the Superintendent of Public Instruction. All individual contracts made between the same parent or legal guardian and different school districts (in the same county or in different counties) are gathered by the Superintendent of Public Instruction and allocation of district responsibility for payment is made in compliance with the law and the Board of Public Education policy. ~~(20-10-111 and 20-10-112, MCA.)~~

(14) remains the same.

(15) The district clerk, in writing warrants for transportation payments to the parent, legal guardian, or the emancipated minor, is guided by the approved rates; the school district may only make payments to the parent, legal guardian, or emancipated minor in accordance with the rate established in (14) for approved contracts. ~~(20-10-124, MCA.)~~

AUTH: 20-3-106, 20-10-112, MCA

IMP: 20-5-321, 20-9-166, 20-10-101, 20-10-111, 20-10-112, 20-10-121, 20-10-124, 20-10-142, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to amend ARM 10.7.106, 10.7.106A, 10.7.113 and 10.7.114 to implement changes made in the 2005 Special Session under SB 1. This bill increased the reimbursement rate for mileage on individual transportation contracts. Several changes are made to clean up extraneous wording and references.

10.7.106A TRANSPORTATION COSTS ALLOCATED BY OUT-OF-DISTRICT ATTENDANCE AGREEMENTS (1) through (4)(a) remain the same.

(b) the number of miles added to a bus route or routes to accommodate students attending under attendance agreements, divided by the number of students riding the buses under the attendance agreement(s), times ~~\$0.25~~ \$0.35, times the number of days the route or routes are conducted for the year of attendance.

(5) through (9) remain the same.

AUTH: 20-10-112, MCA

IMP: 20-5-320, 20-5-321, 20-5-323, 20-10-141, 20-10-142, MCA

Statement of Reasonable Necessity: See statement following ARM 10.7.106.

10.7.113 "TWO CONTRACT AMOUNT" REGULATION (1) and (1)(a) remain the same.

(i) The reimbursement paid to each district may be less than ~~25~~ 35 cents per day, but the combined payment for the contract shall not be less than ~~25~~ 35 cents

per day.

(b) and (c) remain the same.

AUTH: 20-3-106, 20-10-112, MCA

IMP: 20-10-142, MCA

Statement of Reasonable Necessity: See statement following ARM 10.7.106.

10.7.114 SCHEDULE FOR TRANSPORTATION PAYMENTS (1) The schedule for paying for individual and isolated (or "increased") transportation or for room and board in lieu of bus transportation is found in 20-10-142, MCA. This section establishes the amount of individual payments to parents for transporting their children to school (if they reside in an area not served by a school bus) or to a bus stop ~~(if they reside in an area served by a school bus)~~.

(2) remains the same.

(3) In cases where the family must move and maintain two households or where the family must board the student near the school, the family may be eligible for the room and board rate of ~~\$9.25~~ \$12.95 per day for the first child and ~~\$6.00~~ \$8.40 per day for each additional child ~~(20-10-142, MCA)~~. All contracts for room and board reimbursement must be approved by the county transportation committee prior to approval by the Superintendent of Public Instruction.

(a) If there is more than one eligible transportee of the same household, and the eligible transportees attend schools operated by more than one school district, the rate of ~~\$9.25~~ \$12.95 per day shall be paid to the district enrolling the student with the highest grade level. Additional reimbursement will be at the rate of ~~\$6.00~~ \$8.40 per day per student.

AUTH: 20-3-106, 20-10-112, MCA

IMP: 20-10-142, MCA

Statement of Reasonable Necessity: See statement following ARM 10.7.106.

10.7.115 SCHEDULE FOR BUS TRANSPORTATION (1) and (2) remain the same.

(3) Nonbus mileage is reimbursable for a vehicle driven by a bus driver to and from an overnight location of a school bus when the location is more than ~~40~~ ten miles from the school. Reimbursement for nonbus mileage is ~~43~~ 50 cents per mile.

(4) remains the same.

AUTH: 20-3-106, 20-10-112, MCA

IMP: ~~20-10-127~~, 20-10-141, 20-10-142, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined it is reasonable and necessary to amend ARM 10.7.115 to reflect amendments to the nonbus mileage reimbursement rate in HB 63, 2005 Session Laws. The implementation section is amended to remove a reference to 20-10-127, MCA which was repealed in 2003.

10.10.301 CALCULATING TUITION RATES (1) through (2)(a) remain the same.

(b) the costs of the program can be documented and exceed the receiving school district's average general fund budget per budgeted ANB in the year preceding the year of attendance.

(3) through (5)(e) remain the same.

AUTH: 20-5-312, 20-9-102, 20-9-201, MCA

IMP: Title 20, ch. 5, pt. 3, 20-6-702, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined it is reasonable and necessary to amend ARM 10.10.301, 10.10.318, 10.16.3804, 10.16.3811, 10.16.3812, 10.16.3816, 10.20.104, 10.20.105, 10.21.101B, 10.21.101E, 10.21.101G, 10.21.101I, 10.21.102B, 10.21.102E, 10.22.204, 10.23.104, 10.30.403, 10.30.406 and 10.30.415 to implement the three-year average ANB provisions passed in HB 63, 2005 Session Laws. The references to "ANB" must distinguish which type of ANB calculation is being used, since there are six types of ANB used in various sections of law.

10.10.301B OUT-OF-DISTRICT ATTENDANCE AGREEMENTS (1) through (7) remain the same.

(8) When the state is obligated to pay tuition or transportation costs for a student placed under provisions of 20-5-321(1)(d) and (e), MCA, the ~~county superintendent~~ trustees of the district of attendance shall send a completed copy of the student's attendance agreement to the Superintendent of Public Instruction ~~before paying tuition to the school district of attendance for approval.~~ The agreement must be submitted by June 30 of the year following the year of attendance to be eligible for approval.

(9) remains the same.

(10) The state shall be responsible for tuition and may be charged transportation costs as established under 20-5-323, MCA, for a child who has been placed outside the child's resident district by a court or by a state agency or for a child placed outside the child's resident district in a foster care or group home licensed by the state. ~~When the state is obligated to pay a student's tuition or transportation costs, those payments may be made in the child's year of attendance.~~

(11) The state's tuition and related transportation obligation shall be paid to the eligible receiving district by the ~~county superintendent in the county of attendance, who will direct the county treasurer to pay the billing district from the basic county tax for equalization~~ Superintendent of Public Instruction.

(12) Tuition payments made for a child placed outside the child's resident district by a court or state agency must be supported by a properly completed out-of-district attendance agreement signed by both the receiving district and by an authorized representative of the placing court or state agency. Attendance agreements for students placed in state licensed group homes by parents, guardians, or representatives of state licensed group homes must be signed by the receiving district and by a parent or legal guardian or an authorized representative of a state licensed group home on behalf of the parent or legal guardian.

AUTH: 20-5-323, 20-9-102, MCA

IMP: 20-5-320, 20-5-321, 20-5-322, 20-5-323, 20-5-324, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to amend ARM 10.10.301B and 10.10.301D to implement HB 83, 2005 Session Laws. The bill moved the responsibility for paying tuition for students placed by state agencies and courts from the county superintendent to the State Superintendent of Public Instruction. The change in ARM 10.10.301B(12) reflects the Superintendent of Public Instruction's interpretation that 20-5-321(1)(e), MCA, includes a parent's or group home representative's placement of a student in an out-of-district state licensed group home qualifies for state paid tuition.

10.10.301D TUITION REPORTS (1) ~~By July 15 of~~ Following the close of each ~~fiscal~~ year, the trustees of a district shall provide an out-of-district attendance report to the ~~county s~~Superintendent of Public Instruction. That report shall be in a format prescribed by the ~~Office~~ Superintendent of Public Instruction and shall list, for the most recent school year; :

(a) students who attended a school of the district under a mandatory agreement pursuant to 20-5-321, MCA; and

(b) resident students who attended a public school out-of-state for which the district is responsible for payment of the tuition charges; and

(c) resident students attending day treatment programs under approved individualized education programs at private nonsectarian schools in the previous school year.

(2) ~~By July 30, the county superintendent shall submit the tuition reports received under (1) to the Superintendent of Public Instruction. To be eligible to receive state payments for tuition and tuition reimbursements under 20-5-324, MCA, a district must submit the tuition report to the Superintendent of Public Instruction by June 30 of the year following the student's year of attendance.~~

AUTH: 20-5-323, 20-9-102, MCA

IMP: 20-5-320, 20-5-321, 20-5-323, 20-5-324, 20-7-431, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301B.

10.10.311 BUS DEPRECIATION RESERVE FUND (1) Section 20-10-147, MCA, allows school districts to ~~each year~~ budget each year in a bus depreciation reserve fund an amount that does not exceed 20% of the original cost of a bus or a two-way radio. ~~Section 20-10-147, MCA, was amended effective July 1, 1991 to state that the~~ The amount budgeted may not, over time, exceed 150% of the original cost of the bus or radio.

(2) ~~The depreciation on a bus that prior to July 1, 1991 was depreciated 100% or less, may be increased to 150% of its original cost, provided the bus is being used on a regular basis for school purposes. Buses not used after July 1, 1991 because, for example, they are in poor condition, may not be depreciated beyond 100% of their original cost.~~

(3) through (8) remain the same but are renumbered (2) through (7).

AUTH: 20-9-102, MCA

IMP: 20-10-147, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to amend ARM 10.10.311 to remove obsolete wording.

10.10.318 SCHOOL FLEXIBILITY PAYMENT (1) through (1)(a)(i) remain the same.

(ii) dividing by average statewide budgeted ANB for the previous five-year period. Average statewide budgeted ANB is calculated using the final budgeted ANB for fiscal years 20XX-5 through 20XX-1.

(b) and (i) remain the same.

(ii) dividing by the total statewide budgeted ANB for the previous fiscal year. Total statewide budgeted ANB is calculated using the final budgeted ANB for fiscal year 20XX-1.

(c) and (d) remain the same.

(e) "District student funding amount" means the current student amount multiplied by the district's budgeted ANB for fiscal year 20XX-1 plus the average student amount multiplied by the district's average budgeted ANB for fiscal years 20XX-5 through 20XX-1.

(f) through (3) remain the same.

AUTH: 20-9-102, 20-3-106, MCA

IMP: 20-9-541, 20-9-542, 20-9-543, 20-9-544, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.10.610 DEFINITIONS For purposes of this subchapter, the following definitions apply:

(1) "Non-spending investment account" is a school district investment account from which monies are transferred back to the county treasurer to cover district warrants drawn on the district's fund or for cooperatives formed under 20-7-457, MCA, for cooperative warrants drawn on the cooperative's funds.

(2) "School district investment account" is defined as an investment account established by a Montana school district pursuant to 20-9-235, MCA, or by a cooperative as provided under ARM 10.10.611. "School district investment account" does not include an investment pool program hosted by the county as a countywide investment pool or a school district investment pool formed by schools or by a combination of schools and other local governments under 20-9-213, MCA.

(3) "Spending investment account" is a school district investment account from which the district or cooperative formed under 20-7-457, MCA, makes payments for district expenditures using electronic payments, either to vendors or to a subsidiary checking account used to issue checks from the district's school or cooperative's investment accounts. ~~District warrants~~ Warrants are not written on a district

fund held for a district or cooperative by a county treasurer for which if a spending investment account has been established for the fund.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined it is reasonable and necessary to amend ARM 10.10.610 through 10.10.615 to allow a special education cooperative to establish an investment account and request the state to deposit directly to that account, as school districts are allowed to do under 20-9-235, MCA. This applies to special education cooperatives that receive state special education funding directly from the Superintendent of Public Instruction under 20-7-457, MCA.

10.10.611 ESTABLISHMENT OF INVESTMENT ACCOUNTS (1) A In accordance with 20-9-235, MCA, a school district may set up school district investment accounts for any fund or funds of the district. A full service education cooperative established under 20-7-451, MCA, and which receives state special education allowable cost payments directly from the Superintendent of Public Instruction under 20-7-457, MCA, may set up investment accounts for any fund or funds of the cooperative in accordance with 20-9-235, MCA.

(2) remains the same.

(3) All elected officials, school district employees, full service education cooperative employees, and investment firm employees with duties related to the investment must be bonded.

(a) remains the same.

(b) The district or full service education cooperative shall determine the amount for which the elected official or employee shall be bonded based on the amount of money or property handled and the opportunity for defalcation.

(4) Before establishing investment accounts, a school district or full service education cooperative must obtain written documentation that the investment firm or entity being contracted to administer the ~~school district~~ investment account(s):

(a) complies with 20-9-204, MCA, Article VIII, section 13 of the Montana Constitution and is qualified and competent to provide investment services to school districts and full service education cooperatives;

(b) through (d) remain the same.

(e) provides the district or full service education cooperative with a monthly report detailing:

(i) through (vi) remain the same.

(vii) at fiscal year-end, the amount of interest accrued as of June 30 and the fair value of the district's or full service education cooperative's share of pooled investments as of June 30 as prescribed by Governmental Accounting Standards Board (GASB) No. 31.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.610.

10.10.612 SPENDING INVESTMENT ACCOUNTS (1) A district or full service education cooperative that establishes a spending investment account for a fund will issue payments from the fund using electronic payments or checks. District or full service education cooperative warrants may not be issued from a spending investment account.

(a) A district or full service education cooperative using spending investment accounts may establish a subsidiary checking account from which checks are issued. Districts may transfer money from the spending investment accounts to the district's or full service education cooperative's subsidiary checking account to pay checks written against district or cooperative funds held in spending investment accounts.

(b) A district or full service education cooperative issuing checks from a subsidiary checking account may apply facsimile signatures and seals as provided in 2-16-114 and 20-9-221, MCA.

(c) through (2) remain the same.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.610.

10.10.613 AGREEMENT WITH THE COUNTY TREASURER (1) Before establishing a school district investment account or accounts, the trustees of a school district or a full service education cooperative shall enter into a written agreement with the county treasurer.

(2) and (3) remain the same.

(4) A separate agreement must be used for each elementary, high school, or K-12 district or full service education cooperative.

(5) The written agreement must, at a minimum, meet the statutory requirements of 20-9-235, MCA. The district or full service education cooperative and the county treasurer may include additional agreed-upon provisions.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.610.

10.10.614 PAYMENTS INTO AN INVESTMENT ACCOUNT (1) The school district or a full service education cooperative for special education that receives direct special education allowable cost payments from the Superintendent of Public Instruction under 20-7-457(1), MCA, may apply in writing to the state Superintendent of Public Instruction to distribute the district's or cooperative's payments by direct electronic transfer of funds into an investment account as provided by 20-9-235 and 20-9-346(3), MCA.

(2) To qualify for the electronic transfer, the trustees shall submit a written

request to the state Superintendent, including a copy of the trustees' written agreement under ARM 10.10.613 for each affected fund and a copy of the direct deposit signup form (OMB standard form 1199A), signed by the district or cooperative and the investment firm, indicating the routing numbers for the electronic deposit into the school investment account.

(3) remains the same.

(a) the district or cooperative is currently in compliance with financial accounting and reporting requirements of the state Superintendent of Public Instruction;

(b) other funds of the district or cooperative held by the county treasurer do not have deficit cash balances; and

(c) the district's or cooperative's most recent audit report discloses no serious financial noncompliance issues, repeated or unresolved financial problems, or significant internal control problems.

(4) The state Superintendent of Public Instruction shall process an eligible district's or cooperative's request for direct depositing beginning with the next scheduled payment if the district's or cooperative's completed request is received by the 10th of a month, barring unforeseen delays.

(5) remains the same.

(6) The state Superintendent of Public Instruction may rescind the approval of a district's or cooperative's request to receive electronic transfers to investment accounts if the criteria of (3) and internal control provisions of ARM 10.10.615 are not met. Upon receipt of written notice, the trustees may request a hearing to be held within 30 days. If, after hearing, the conclusion is that the criteria of (3) are not being met, the state Superintendent of Public Instruction may discontinue transfers to the district's or cooperative's investment account after a waiting period of 60 days.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.610.

10.10.615 INTERNAL CONTROLS AND ACCOUNTING RECORDS

(1) The trustees of a district or the management board of a full service education cooperative shall provide and enforce a system of internal controls to safe-guard the district's or full service education cooperative's money by providing the following procedural checks and balances:

(a) Each month, a school district or full service education cooperative that has established ~~an school district~~ investment account(s) shall reconcile:

(i) the district's or cooperative's records of investment balances;

(ii) county treasurer's transfers from the district's or cooperative's funds to the account(s);

(iii) transfers from the account(s) to the district or cooperative fund(s) held by the county treasurer;

(iv) and (v) remain the same.

(b) A person other than the district or full service education cooperative employee responsible for producing payments by check or electronic transfer,

including another district or cooperative employee, a county employee, a trustee, or a contracted accounting professional, shall review the monthly reconciliation to verify validity of:

(i) through (iii) remain the same.

(iv) authorization of expenditures by the appropriate school district or full service education cooperative official.

(c) remains the same.

(2) When directed by the school district or full service education cooperative, a county treasurer shall deposit the district's or cooperative's money directly into the appropriate investment account by issuing a treasurer's check or wire transfer of funds to the investment account. A treasurer may not direct payments to a subsidiary checking account.

(a) When directing investments, the school district or full service education cooperative shall provide written notification to the county treasurer stating the amount to deposit and the fund making the investment.

(b) A school district or full service education cooperative shall not purchase investments using district or cooperative warrants.

(3) For a non-spending investment account, a school district or full service education cooperative shall direct the investment firm to deposit redeemed investments and interest income to the credit of the specific and appropriate school district fund held by the county treasurer.

(a) The school district or full service education cooperative shall require that the investment firm, transferring money to the district's or cooperative's fund held by the county treasurer, inform the county treasurer in writing stating the fund(s) to which the proceeds should be deposited and the amount of the interest earnings and principal contained in the proceeds. Any losses incurred must also be reported by fund.

(b) The school district or full service education cooperative shall not make payments from a non-spending investment account.

(4) remains the same.

(5) A school district or full service education cooperative participating in a non-spending investment account shall monitor its cash balances maintained with the county treasurer and will promptly redeem investments to pay district or cooperative warrants and district bond principal and interest in a timely manner.

AUTH: 20-9-102, 20-9-235, MCA

IMP: 20-9-235, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.610.

10.15.101 DEFINITIONS The following definitions apply to ARM Title 10, chapters 16, 20, 21, 22, and 23:

(1) "Absent" means the student is not present during organized public school instruction for which he is enrolled. An enrolled student who is receiving services at an offsite instructional setting on the official enrollment count date is not absent for purposes of the official counts submitted to the state Superintendent of Public Instruction unless the student does not attend his next scheduled organized public

school instruction session, if any.

(2) through (6) remain the same.

(7) "BASE budget" means the minimum general fund budget a district is allowed to adopt. It is the sum of: 80% of the district's basic and per-ANB entitlements; 100% of the quality educator payment; 100% of the at-risk student payment; 100% of the Indian Education for All payment; 100% of the American Indian achievement gap payment; 140% of the district's special education allowable cost payment; and 40% of the district's related services block grant payment to cooperatives.

(8) and (9) remain the same.

(10) "Budgeted ANB" means the ANB used on the final general fund budget for a district. Depending on calculations performed under 20-9-311, MCA, the budgeted ANB will either be the current ANB or the three-year ANB.

(10) through (14) remain the same but are renumbered (11) through (15).

(16) "Current ANB" means the ANB calculated using the enrollment of the school year preceding the year for which the ANB applies for funding. That is, the current ANB for FY 20XX+1 is the ANB calculated using the official enrollment counts taken during FY 20XX.

(15) through (20) remain the same but are renumbered (17) through (22).

(21) (23) "District mill value per district ANB" for FY 20XX+1 means the district's CY 20XX-1 mill value divided by the district's 20XX budgeted ANB.

(22) through (26) remain the same but are renumbered (24) through (28).

(27) (29) "Facility guaranteed mill value per ANB" means the CY 20XX-1 statewide mill value multiplied by 1.40, then divided by the statewide FY 20XX high school or elementary budgeted ANB.

(28) and (29) remain the same but are renumbered (30) and (31).

(30) (32) "GTBA budget area" means the portion of a district's general fund BASE budget minus direct state aid, and minus state special education allowable cost payments, minus the quality educator payment, minus the Indian Education for All payment, minus the at-risk student payment, and minus the American Indian achievement gap payment. For districts with lower than average tax bases, GTBA is paid to subsidize mills levied to fund the GTBA budget area.

(31) through (33) remain the same but are renumbered (33) through (35).

(34) (36) "Maximum general fund budget" or "maximum GFB" means the maximum general fund budget a district is allowed to adopt. It is the sum of: 100% of the district's basic and per-ANB entitlements; 100% of the quality educator payment; 100% of the at-risk student payment; 100% of the Indian Education for All payment; 100% of the American Indian achievement gap payment; up to 200% of the district's special education allowable cost payment; and up to 100% of the district's related services block grant payment to cooperatives.

(35) through (38) remain the same but are renumbered (37) through (40).

(39) (41) "Present" means the student is in attendance, for the assigned organized public school program of instruction in which the student is enrolled or is receiving educational services at an off site instructional setting approved by the district.

(40) (42) "Pupil-instruction (PI) days" are those days when school districts provide organized instruction for pupils enrolled in public schools while under the

supervision of a teacher. ~~Districts are required to conduct a minimum of 180 PI days in a school year.~~

~~(41)~~ (43) "Pupil-instruction-related (PIR) days" are those days of teacher activities, approved by the Office Superintendent of Public Instruction for the school year preceding the year to be funded, which are devoted to improving the quality of instruction. For calculation of ANB the PIR days may not exceed seven. ~~Once approved, PIR days may not be rescheduled without written approval of the Office of Public Instruction.~~

~~(42)~~ through ~~(44)~~ remain the same but are renumbered ~~(44)~~ through ~~(46)~~.

~~(45)~~ (47) "Retirement fund" means the district fund authorized by 20-9-501, MCA, for financing the employer's contribution to the teachers' retirement systems, the public employees' retirement system, unemployment compensation, ~~and social security, and Medicare.~~

~~(46)~~ through ~~(51)~~ remain the same but are renumbered ~~(48)~~ through ~~(53)~~.

~~(52)~~ (54) "Statewide elementary GTB ratio" or "statewide high school GTB ratio" for GTBA funding of eligible districts' FY 20XX+1 BASE budgets means the ratio of 175% of the CY 20XX-1 statewide taxable valuation to the statewide elementary or high school total of FY 20XX ~~GGTBA~~ budget area.

~~(53)~~ remains the same but is renumbered ~~(55)~~.

~~(54)~~ (56) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB" means the CY 20XX-1 statewide mill value multiplied by 1.21, then divided by the statewide FY 20XX high school or elementary budgeted ANB.

~~(55)~~ and ~~(56)~~ remain the same but are renumbered ~~(57)~~ and ~~(58)~~.

(59) "Three-year ANB" means the average of current ANB for a three-year period, as calculated under 20-9-311, MCA. Three-year ANB for FY 20XX is based on the average of current ANB for FY 20XX, FY20XX-1, and FY 20XX-2, rounded up to the nearest whole ANB.

~~(57)~~ (60) "Total per-ANB entitlement" means ~~the sum of a district's per-ANB entitlements based on the previous fiscal year enrollment count certified by OPI is~~ defined as specified in 20-9-306(14), MCA.

~~(58)~~ remains the same but is renumbered ~~(61)~~.

AUTH: 20-9-102, MCA

IMP: Title 20, ch. 9, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to change definitions in ARM 10.15.101 as follows:

Amend (1) and renumbered (41) to implement HB 359, 2005 Session Laws, which allows students who participate in school courses or programs at off-site locations to be included for ANB in certain cases;

Amend (7) and renumbered (32) to reflect new general fund payments added under SB 1, 2005 Special Session Laws.

Add (1), (16), and renumbered (59) to define types of ANB used to implement the three-year averaging of ANB allowed under HB 624, 2005 Session Laws and amend renumbered (23), (29), and (60) to reflect the impacts on ANB types used in those definitions.

Amend renumbered (43) to remove an obsolete requirement and correct minor errors and omissions in renumbered (47) and (54).

10.16.3804 GENERAL PRINCIPLES OF SPECIAL EDUCATION FUNDING

(1) and (1)(a) remain the same.

(b) The distribution of the funds is based primarily on current ANB.

(c) through (3) remain the same.

AUTH: 20-7-431, 20-9-321, MCA

IMP: 20-7-431, 20-9-321, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.16.3811 GENERAL PRINCIPLES OF THE SPECIAL EDUCATION ALLOWABLE COST PAYMENT CALCULATION (1) For purposes of calculating statewide allowable cost amounts, the Superintendent of Public Instruction shall use the most current information available as the basis for calculating the special education allowable cost payments for the ensuing fiscal year. If material differences in statewide factors used in the calculation are documented or legislative changes occur regarding the calculation, the ~~Office~~ Superintendent of Public Instruction may recalculate and notify all districts and counties. Current ANB will be used in the payment calculation for the purpose of reflecting relative district and program size. Use of ANB does not limit the age range for fund expenditures.

(2) through (4)(d) remain the same.

AUTH: 20-9-321, MCA

IMP: 20-9-321, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.16.3812 CALCULATION OF SPECIAL EDUCATION ALLOWABLE COST PAYMENTS (1) The instructional services block grant rate for the ensuing fiscal year is calculated by multiplying the state special education appropriation by .525 and dividing by the ensuing year statewide current ANB of eligible districts, truncated to two decimal places.

(2) The related services block grant rate for the ensuing fiscal year is calculated by multiplying the state special education appropriation by .175 and dividing by the ensuing year statewide current ANB of eligible districts, truncated to two decimal places.

(3) through (4)(a)(i) remain the same.

(ii) divide (4)(a)(i) by the ensuing year's current ANB for all participating districts in all approved cooperatives to determine per ANB rate;

(iii) multiply (4)(a)(ii) by the cooperative's ensuing year's current ANB from member districts.

(b) and (i) remain the same.

(ii) use the following factors to distribute, on a weighted basis, the figure from (4)(b)(i) among approved cooperatives (weight assigned to each cooperative is

determined by dividing the number of rural miles within the boundaries of a cooperative by the total current ANB of member districts within the cooperative and add to that figure the number of member districts and full-time equivalent of itinerant personnel in the cooperative);

(A) and (B) remain the same.

(C) the most up-to-date current ANB reported by member school districts;
and

(D) and (5) remain the same.

(6) The Superintendent of Public Instruction calculates an eligible district's special education allowable cost payment for the ensuing fiscal year by multiplying the instructional block grant rate by the district's ensuing fiscal year current ANB, adding the related services block grant rate multiplied by the district's ensuing fiscal year current ANB, adding the district's reimbursement for disproportionate costs, if applicable. If the district is a participating member of a cooperative, the special education allowable cost payment will not include the related services block grant.

(7) remains the same.

AUTH: 20-9-321, MCA

IMP: 20-9-321, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.16.3816 DISTRIBUTION OF SPECIAL EDUCATION ALLOWABLE COST PAYMENTS (1) remains the same.

(2) A district's instructional and related services block grants are based on current ANB.

(a) and (b) remain the same.

AUTH: 20-9-321, MCA

IMP: 20-9-321, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.20.102 CALCULATION OF AVERAGE NUMBER BELONGING (ANB)

(1) through (3) remain the same.

(4) The official count of enrolled students, as defined in ARM 10.15.101, is taken on the first Monday in October and the 1st of February, or the first school day that follows the ~~1st of February if that date~~ count date if the official count date is not a school day. A school district may not count as enrolled on the count date a student who:

(a) through (6) remain the same.

(7) For purposes of the enrollment count described in (4):

(a) a kindergarten student enrolled in a program designed to provide less than ~~480~~ 181 hours of pupil instruction time per school year is reported as enrolled but is excluded from eligibility for purposes of ANB. A kindergarten student enrolled in a program designed to provide ~~480~~ 181 hours or more of pupil instruction time per school year is reported as enrolled and is included in eligibility for purposes of ANB.

(b) remains the same.

(i) less than ~~480~~ 181 hours of pupil instruction time per school year is reported as enrolled but is excluded from eligibility for purposes of ANB;

(ii) ~~480~~ 181 to 359 hours of pupil instruction time per school year is reported as ~~part-time~~ one-quarter time enrolled;

(iii) ~~360 or more~~ 360 to 539 hours of pupil instruction time per school year is reported as ~~full-time~~ half-time enrolled;

(iv) 540 to 719 hours of pupil instruction time per school year is reported as three-quarter time enrolled; and

(v) 720 or more hours of pupil instruction time per school year is reported as full-time enrolled.

(8) Homebound students, as defined in ARM 10.15.101, and students who are confined to a treatment, medical, or custodial facility may be counted as enrolled on the court dates for ANB purposes if the student:

(a) through (13)(c) remain the same.

(14) A school district must conduct ~~90 days and~~ a minimum of 360 hours of pupil instruction for a kindergarten program, ~~180 days and~~ a minimum of 720 hours of pupil instruction for grades 1-3, and ~~180 days and~~ a minimum of 1,080 hours of pupil instruction for grades 4-11, and ~~175 days and~~ a minimum of 1,050 hours for grade 12.

(a) If the school district fails to conduct the required ~~number of days and the~~ minimum number of hours for any school or program, the Superintendent of Public Instruction will reduce the direct state aid payments for the year in which the requirement was not met by ~~1/90th for each school day less than 180 school days~~ twice the hourly funding amount by:

(i) calculating the direct state aid per hour attributable to the school or program in proportion to the budgeted ANB of the school or program divided by the required minimum number of hours and multiplying by two;

(ii) subtracting the number of aggregate hours conducted by the school or program from the number of minimum aggregate hours required under 20-9-311, MCA;

(iii) multiplying (14)(a)(i) by (ii) to determine the amount of the funding penalty; and

(iv) withholding the adjustment from the ensuing year payments to the district.

(b) However, if a school district fails to conduct the minimum number of ~~days~~ hours by reason of one or more unforeseen emergencies as defined in 20-9-802, MCA, the Superintendent of Public Instruction shall reduce the direct state aid payments ~~by 1/180th proportionally for each school day~~ aggregate hour less than the minimum required by applying the calculation in (14)(a), divided by two.

(c) The reduction of state funding will be prorated based on enrollment for the portion of the district, such as one class, school, or grade level, for which the district fails to conduct the minimum pupil instruction ~~days and~~ hours.

(15) School districts will be funded based on the current ANB or three-year ANB, whichever generates the greatest maximum general fund budget. For the purpose of determining the BASE funding program of a district, current ANB and three-year ANB will be calculated using the following methods:

(a) To calculate current ANB:

(i) the enrollment reported by the school district on the October and February enrollment report forms to the office Superintendent of Public Instruction, pursuant to 20-9-311, MCA, will be adjusted and averaged by budget unit. ~~After subtracting the prekindergarten enrollment and one-half of the kindergarten enrollment and adjusting for part-time enrollment from each report, the average will be multiplied by the total of PIR days plus PI days and divided by 180 to determine ANB; as follows:~~

By budget unit: [(enrollment for first Monday in October + enrollment for February 1) - (kindergarten enrollment for students receiving less than ~~480~~ 181 hours of pupil instruction time per school year) - (one-half kindergarten enrollment for students receiving ~~480~~ 181 hours or more of pupil instruction time per school year) - (prekindergarten enrollment) - (part-time enrollment for students in grades 1 through 12 receiving less than ~~480~~ 181 hours of pupil instruction time per school year) - (0.75 times the part-time enrollment for students in grades 1 through 12 receiving 181 through 359 hours of pupil instruction time per school year) - ~~(one-half of (0.50 times the part-time enrollment for students in grades 1 through 12 receiving 480—359~~ 360 through 539 hours of pupil instruction time per school year) - (0.25 times part-time enrollment for students in grades 1 through 12 receiving 540 through 719 hours of pupil instruction time per school year) - (enrolled students reaching 19 years of age by September 10 of the school year)] divided by 2 to get the average of the two enrollment counts by budget unit;

~~Then: average of two enrollment counts by budget unit, multiplied~~

(ii) multiply (15)(a)(i) by the sum of PIR days plus PI days, divided by 180, rounded up to the next whole number, equals current ANB; and

~~(b) (iii) add the additional approved enrollment, as determined in ARM 10.20.103, will be added to the enrollment used to calculate the final~~ current ANB for BASE funding.

(b) To calculate three-year ANB, the Superintendent of Public Instruction will sum the current ANB by budget unit for the budget year and the two years preceding the year for which three-year ANB could be used for funding, divide the sum by three, and round up to the nearest whole number.

(c) To determine whether the current ANB or three-year ANB will be used for budgeting and funding purposes, the Superintendent of Public Instruction will calculate the district's maximum general fund budget using the current ANB as determined in (15)(a) for every budget unit of the district and also using the three-year ANB as determined in (15)(b) for every budget unit of the district. The ANB type that generates the highest maximum general fund budget will be used for budgeting and for determining the direct state aid funding for the district's general fund budget for the ensuing year.

AUTH: 20-9-102, 20-9-346, 20-9-369, MCA

IMP: 20-1-301, 20-1-302, 20-1-304, 20-7-117, 20-9-311, 20-9-313, 20-9-314, 20-9-805, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to amend ARM 10.20.102 to implement legislative changes under various bills of 2005 Session Laws and 2005

Special Session Laws. Sections (4), (7), and (14), reflect changes under SB 369, 2005 Session Laws which repealed the requirement for a minimum number of school days per year; established part-time ANB funding for one-quarter, one-half, three-quarters, and full-time enrollment based on hours of enrollment for the year; clarified the conditions under which a student may be considered enrolled for ANB purposes; and recognized the ability for districts to count ANB for resident students who participate in off-site distance learning courses and programs. Section (15) is changed to implement the three-year averaging of ANB required by HB 63, 2005 Session Laws, and (4) corrects wording but does not change existing meaning.

10.20.104 ANTICIPATED UNUSUAL ENROLLMENT INCREASE - ANB CALCULATION (1) and (2) remain the same.

(a) Estimate the district's anticipated enrollment for the next October count using information known to be accurate at the time the estimate is made. ~~Prekindergarten enrollment is not included in the estimate. One-half of the anticipated kindergarten enrollment and one-half of the anticipated part-time enrollment is subtracted.~~ By budget unit: [(estimated enrollment for first Monday in October) - (estimated kindergarten enrollment for students receiving less than 181 hours of pupil instruction time per school year) - (one-half estimated kindergarten enrollment for students receiving 181 hours or more of pupil instruction time per school year) - (estimated prekindergarten enrollment) - (estimated part-time enrollment for students in grades 1 through 12 receiving less than 181 hours of pupil instruction time per school year) - (0.75 times the part-time estimated enrollment for students in grades 1 through 12 receiving 181 through 359 hours of pupil instruction time per school year) - (0.50 times the estimated part-time enrollment for students in grades 1 through 12 receiving 360 through 539 hours of pupil instruction time per school year) - (0.25 times estimated part-time enrollment for students in grades 1 through 12 receiving 540 through 719 hours of pupil instruction time per school year) - (estimated enrolled students reaching 19 years of age by September 10 of the school year) + early graduates]. This is anticipated enrollment (AE).

(b) Determine the adjusted and averaged enrollment counts for October and February of the current school year ~~adjusted to remove one-half of the kindergarten enrollment and one-half of the part-time enrollment~~ using the calculation in ARM 10.20.102(15)(a)(i). The average of the October and February adjusted enrollment counts is current year enrollment (CYE).

(c) remains the same.

(d) Determine the anticipated increase in enrollment as a percentage of the current year enrollment by dividing the AEI calculated in (2)(c) by the current year enrollment. ~~AEI/CYE~~ AEI divided by CYE = % increase.

(e) If the anticipated increase in enrollment as a percentage of the current year enrollment calculated in (2)(d) exceeds 6%, the Superintendent of Public Instruction shall approve ~~increased ANB used to the district's use of the AEI as determined in (3) in place of the current ANB for purposes of determining general fund payments and budget limitations in accordance with 20-9-311, MCA, to~~ establish the ensuing year's BASE funding program and entitlement calculations in accordance with 20-9-314(5), MCA.

(3) The increased current ANB for the ensuing fiscal year will be calculated

as follows:

- (a) remains the same.
- (b) Determine AEI for each budget unit by subtracting CYE by budget unit from AE by budget unit. $AEI \text{ by budget unit} = AE \text{ by budget unit} - CYE \text{ by budget unit}$. If the district has only one budget unit, go to (3)(d).
- (c) and (d) remain the same.
- (e) Multiply the sum calculated in (3)(d) by the total of PI days and PIR days approved for the current year and divide by 180 for each budget unit. Round the ANB up to the nearest whole number. This figure is used as current ANB for purposes of ARM 10.20.102(15) in determining general fund payments and budgeting limitations for the district.
- (4) through (4)(b) remain the same.
- (c) If the ANB recalculated in (4)(a) based on the actual October enrollment is less than the ANB ~~used for funding~~ calculated in (3)(e), (2) will be used to recalculate current ANB using actual enrollment as of the next February count in place of the anticipated enrollment.
- (d) remains the same.
- (e) If the ANB recalculated in (4)(c) based on the actual February enrollment is less than the ANB ~~used for funding~~ calculated in (3)(e), the anticipated unusual enrollment increase did not materialize and the ~~office~~ Superintendent of Public Instruction makes the following adjustments:
 - (i) the district's general fund budget of the current year will be adjusted, as needed, to comply with legal limitations and requirements using the higher of the ANB recalculated in (4)(a) or (4)(c) in place of the current ANB that was used when determining the budget for the year; and
 - (ii) remains the same.

AUTH: 20-3-106, 20-9-102, MCA

IMP: 20-9-166, 20-9-311, 20-9-314, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301. Also ARM 10.20.104 includes changes from SB 359 (2005 Session Laws) that count part-time students for ANB based on hours of annual enrollment.

10.20.105 UNANTICIPATED ENROLLMENT INCREASE (1) remains the same.

(a) The enrollment determined from the enrollment reported on the fall enrollment report (~~Form FR-4~~) or the spring enrollment report form for official reporting is defined as the "current year enrollment" (CYE) for purposes of this calculation. ~~CYE must be adjusted by subtracting the prekindergarten enrollment, one-half of the kindergarten enrollment and one-half of the part-time enrolled students reported.~~ However, kindergarten enrollment for a variance which provides 90 full days of instruction in a single semester may be counted as one instead of one-half.

(b) Determine the prior year enrollment. For purposes of this calculation, "prior year enrollment" (PYE) will mean the adjusted and averaged enrollment used for ANB ~~purposes calculated from the official October and February counts of the~~

~~year preceding the year the increase of enrollment is being calculated, adjusted as described in (1)(a) the current ANB or three-year ANB, whichever was used as budgeted ANB.~~

(c) remains the same.

(d) Determine the enrollment increase as a percentage of the prior year enrollment by dividing the enrollment increase calculated in (1)(c) by the prior year enrollment. ~~EI/PYE~~ EI divided by PYE = %.

(e) If the enrollment increase as a percentage of the prior year enrollment calculated in (1)(d) exceeds 6%, the Superintendent of Public Instruction will ~~approve an increase in ANB used to establish~~ recalculate and adjust the current year's basic entitlement and total per-ANB entitlement in accordance with 20-9-314(5), MCA, using the recalculation of ANB in (2).

(2) ~~The increased ANB adjusted funding will be based on the impact of the increased enrollment~~ for the current fiscal year is calculated as follows:

(a) through (e) remain the same.

(f) Round the result calculated in (2)(e) up to the next whole number to determine the funding adjustment ANB.

(3) The funding adjustment ANB calculated under (2) will be used only to determine the adjusted entitlements and increased funding for the unusual enrollment increase in the current year and will not result in an adjustment of ANB for purposes of future calculations of current ANB or three-year ANB under 20-9-311, MCA.

AUTH: 20-9-102, MCA

IMP: 20-9-313, 20-9-314, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.101B CALCULATION OF STATEWIDE GTBA (1) remains the same.

(2) The statewide elementary or high school mill value per budgeted ANB for purposes of calculating FY 20XX+1 retirement fund GTBA is: [(calendar year 20XX-1 statewide taxable valuation x 1.21) / 1,000] / 20XX statewide elementary or high school budgeted ANB certified for the adopted budget.

(3) Facility guaranteed mill value per ANB for purposes of calculating FY 20XX+1 school facility entitlement guaranteed tax base is: [(calendar year 20XX-1 statewide taxable valuation x 1.40) / 1000] / FY 20XX statewide elementary or high school budgeted ANB certified for the adopted budget.

(4) remains the same.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.101E WHICH DISTRICTS QUALIFY FOR GTBA ON GENERAL FUND MILLS (1) through (2)(b) remain the same.

(3) For the initial year of operation for a non-operating district that re-opens

under 20-9-502 and 20-9-503, MCA, the district GTB ratio shall be calculated using the district budgeted ANB and BASE budget for the district's last year of operation.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.101G SCHOOL DISTRICT BOUNDARY CHANGES (1) If the boundaries of a school district will change in the ensuing year, the ~~Office~~ Superintendent of Public Instruction must be notified by April 25 of the year prior to the change. Upon notification of the change ~~OP~~ the Superintendent of Public Instruction will recalculate the district mill value per ANB and subsidy per mill for the ensuing year using the sum of the current year taxable valuations, the sum of the ~~current year~~ budgeted ANB, and the sum of the GTBA budget areas of the territories within the district(s).

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.101I SCHOOL FACILITY ADVANCES AND REIMBURSEMENTS

(1) through (8) remain the same.

(9) After the payment is made in May pursuant to 20-9-371, MCA, actual state advance amounts for the ensuing fiscal year will be calculated using budgeted ANB and district and facility guaranteed mill values for the year in which the advance applies and the most current percentage of state share which will be considered "prior year's" percentage in the year in which the payment is made. The State Superintendent of Public Instruction will notify the districts of the amount to estimate as revenue in their debt service funds by the final budget meeting.

(10) remains the same.

(11) Eligibility for a district with multiple bonding jurisdictions will be based on district budgeted ANB, district debt service mill value per budgeted ANB, and total district entitlement and obligations.

(12) and (13) remain the same.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.102B CALCULATION OF COUNTY MILL VALUES PER ANB

(1) remains the same.

(2) The county elementary or high school GTB mill value per ANB for purposes of calculating FY 20XX+1 retirement fund GTBA is: (calendar year 20XX-1 county taxable value/1,000) / 20XX county elementary or high school budgeted

ANB.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.21.102E CALCULATION OF GTBA TO QUALIFYING COUNTIES

(1) and (1)(a) remain the same.

(b) "A" * times county elementary or high school 20XX+1 budgeted ANB =
"B"

(c) "B" * times certified elementary or high school FY 20XX+1 county retirement fund mills levied = dollar amount of 20XX+1 GTBA a county will receive in support of the elementary or high school county retirement fund.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-366, 20-9-367, 20-9-368, 20-9-369, 20-9-370, 20-9-371, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.22.102 GENERAL FUND SPENDING LIMITS (1) This rule is effective for fiscal year 2006-07 only.

(2) The trustees must adopt a budget at least equal to the BASE budget.

(3) If a district's current year budget does not exceed the ensuing year's maximum budget allowed by statute for the ensuing year, the trustees must adopt a budget for the ensuing year that is at least equal to the ensuing year's BASE budget, but not greater than the ensuing year's maximum budget and the district did not adopt a budget from FY 2000-01 to FY 2004-05 that exceeded the maximum general fund budget limit for that year, the following limits apply.

(a) Without voter approval for any increase in the over-BASE levy amount, the trustees may adopt a budget up to the ensuing year's maximum budget and not less than the ensuing year's BASE budget. equal to the sum of the following:

(i) the ensuing year's BASE budget;

(ii) the previous year's over-BASE levy amount;

(iii) the fund balance available to reappropriate to fund the over-BASE budget;

(iv) the prior year's excess reserves under 20-9-141, MCA, available to fund the over-BASE budget; and

(v) the estimated tuition revenue available to fund the over-BASE budget.

(b) With voter approval of the budget exceeding (3)(a), the trustees may adopt a budget not greater than the ensuing year's maximum.

(2) The trustees of a district that has always adopted a budget above maximum since FY 2000, and whose current year budget exceeds the maximum budget for the ensuing fiscal year, must:

(a) adopt a budget that is at least equal to the ensuing year BASE budget and not more than the lesser of either:

(i) the district's current year budget; or

(ii) the ensuing year's maximum budget plus the difference between the

current year budget and the current year maximum budget amount;

~~(b) obtain voter approval for the over maximum budget amount.~~

~~(3) The trustees of a school district that was equalized in the current year and whose current year budget exceeds the ensuing year's maximum budget due to an enrollment decrease of less than 30%, must:~~

~~(a) adopt a general fund budget that is at least equal to the ensuing year's BASE budget and not more than the current year budget;~~

~~(b) obtain voter approval for the over maximum amount of budget;~~

~~(c) within five years of first adopting a budget which exceeds maximum due to an enrollment decrease of less than 30%, adopt a budget which does not exceed the district's maximum budget amount; and~~

~~(d) before adopting a general fund budget that exceeds the maximum budget, adopt a written plan to reach the district's maximum general fund budget as provided in (3)(c).~~

~~(4) The trustees of a school district that was equalized and whose current year general fund budget is greater than the maximum general fund budget established for the ensuing fiscal year due to an enrollment decrease of 30% or more must:~~

~~(a) adopt a general fund budget that is:~~

~~(i) at least equal to the ensuing year's BASE budget; and~~

~~(ii) not more than:~~

~~(A) in the first year following the enrollment decline, the ensuing year maximum plus [the prior year budget less the ensuing year maximum, times 80%];~~

~~(B) in the second year following the enrollment decline, the ensuing year maximum plus [the prior year budget less the ensuing year maximum, times 75%];~~

~~(C) in the third year following the enrollment decline, the ensuing year maximum plus [the prior year budget less the ensuing year maximum, times 66.7%];~~

~~(D) in the fourth year following the enrollment decline, the ensuing year maximum plus [the prior year budget less the ensuing year maximum, times 50%];~~

~~(E) in the fifth year following the enrollment decline, the ensuing year maximum.~~

~~(b) obtain voter approval for the over maximum budget amount;~~

~~(c) within five years of first adopting a budget which exceeds maximum due to an enrollment decrease of 30% or more, adopt a budget within the limits of (1).~~

~~(5) The percentage of enrollment decrease for purposes of (3) and (4) is calculated by subtracting the ensuing year's ANB from the current year's ANB, dividing the result by the current year's ANB, and rounding up to the nearest whole number.~~

~~(6) For a non-operating district that is reopening, budget limitations for the general fund shall be based on the last operating year's budget for the general fund. This budget will be considered the prior year's budget and used in calculations to determine budget limitations for the year of reopening. These budget limitation calculations may not allow a general fund budget below BASE or above maximum as calculated for the year of reopening.~~

~~(a) For a non-operating district that reopens a school under 20-6-502, MCA, the applicability of school isolation provisions in 20-9-302, MCA, will be determined by the ANB in the last operating year and the ANB in the year the school reopens.~~

~~(7) For purposes of determining the spending limit for a school district participating in a full service cooperative for special education programs, the BASE budget amount and maximum general fund budget may include a portion of the payments received by the full service cooperative in support of special education programs. The State Superintendent of Public Instruction will notify each school district participating in a cooperative of its payments for use in setting its BASE budget and maximum general fund budget for the ensuing school fiscal year.~~

~~(8) A district that, after adopting a budget at or below the maximum general fund budget for at least one year, subsequently adopts a budget exceeding the maximum general fund budget under the provisions of 20-9-308, MCA, for declining enrollment, shall budget within the restrictions of the same mandatory five year phase-in for that category provided in 20-9-308, MCA, until the district budget is at or below the maximum general fund budget.~~

~~(9) The State Superintendent of Public Instruction shall monitor the general fund budgets of each school district to ensure compliance with the spending limits established in 20-9-308, MCA. The State Superintendent of Public Instruction may request a revised budget from any district whose general fund budget is not within the limits using the guidelines established in ARM 10.10.503.~~

(4) If a district's current year budget does not exceed the ensuing year's maximum budget and the district adopted a budget in at least one year from FY 2000-01 to FY 2004-05 that exceeded the maximum general fund budget limit for that year, the following limits apply:

(a) If the highest budget for FY 2000-01 to FY 2004-05 is less than the ensuing year maximum budget the trustees, without voter approval, may adopt a budget equal to the sum of:

(i) the ensuing year's BASE budget;

(ii) the previous year's over-BASE levy amount;

(iii) the fund balance available to reappropriate to fund the over-BASE budget;

(iv) the prior year's excess reserves under 20-9-141, MCA, available to fund the over-BASE budget; and

(v) the estimated tuition revenue available to fund the over-BASE budget.

(b) If the highest budget adopted for FY 2000-01 to FY 2004-05 exceeds the ensuing year maximum budget the trustees, without voter approval, may adopt the ensuing year maximum.

(c) With voter approval, the trustees may adopt the greater of the ensuing year maximum or the highest budget adopted for FY 2000-01 to FY 2004-05.

(5) If a district's current year budget exceeds the ensuing year's maximum budget, the following limits apply:

(a) Without voter approval the trustees may adopt a budget equal to the greater of:

(i) the ensuing year maximum budget; or

(ii) the sum of:

(A) the ensuing year's BASE budget;

(B) the previous year's over-BASE levy amount;

(C) the fund balance available to reappropriate to fund the over-BASE budget;

(D) the prior year's excess reserves under 20-9-141, MCA, available to fund the over-BASE budget; and

(E) the estimated tuition revenue available to fund the over-BASE budget.

(b) With voter approval of the amount of budget exceeding (5)(a):

(i) if the district did not adopt a budget in at least one year from FY 2000-01 to FY 2004-05 that exceeded the maximum general fund budget limit for that year, the trustees may adopt the prior year's adopted budget; and

(ii) if the district adopted a budget in at least one year from FY 2000-01 to FY 2004-05 that exceeded the maximum general fund budget limit for that year, the trustees may adopt the highest budget adopted for FY 2000-01 to FY 2004-05.

(6) For a nonoperating district that is reopening, budget limitations for the general fund shall be based on the last operating year's budget for the general fund. This budget will be considered the prior year's budget and used in calculations to determine budget limitations for the year of reopening. These budget limitation calculations may not allow a general fund budget below BASE or above maximum as calculated for the year of reopening.

(a) For a nonoperating district that reopens a school under 20-6-502, MCA, the applicability of school isolation provisions in 20-9-302, MCA, will be determined by the budgeted ANB in the last operating year and the budgeted ANB in the year the school reopens.

(7) For purposes of determining the spending limit for a school district participating in a full service cooperative for special education programs, the BASE budget amount and maximum general fund budget may include a portion of the payments received by the full service cooperative in support of special education programs. The state Superintendent of Public Instruction will notify each school district participating in a cooperative of its payments for use in setting its BASE budget and maximum general fund budget for the ensuing school fiscal year.

(8) The state Superintendent of Public Instruction shall monitor the general fund budgets of each school district to ensure compliance with the spending limits established in 20-9-308, MCA. The state Superintendent of Public Instruction may request a revised budget from any district whose general fund budget is not within the limits using the guidelines established in ARM 10.10.503.

(9) When budgeting for the first year of operation following a consolidation or annexation:

(a) the budgets of the combining districts for the year preceding the first year of operation as a consolidated or annexed district will be summed;

(b) the amount calculated in (9)(a) will be used in place of the current year budget in sections (2) through (4) for purposes of determining the consolidated or annexed district's ensuing year budget limitations;

(c) regardless of the relationship of the individual combining districts' adopted budgets to their individual BASE and maximum budgets for the year preceding the first year operating as a newly consolidated district, the amount calculated in (9)(a) will be assumed to have been no more than the maximum budget of that year for purposes of determining the ensuing year's budget of the newly consolidated district; and

(d) if a newly consolidated district adopts a budget that exceeds the maximum budget for the ensuing year, it will be assumed to be the first year of over-

maximum budgeting for the purposes of applying the limit on the number of years the district is allowed to adopt a budget that exceeds the maximum budget under 20-9-308, MCA.

AUTH: 20-9-102, MCA

IMP: 20-9-308, 20-9-315, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined it is reasonable and necessary to amend ARM 10.22.102 to implement the general fund budget limitations passed under HB 63, 2005 Session laws, which apply temporarily to FY 2005-06 and FY 2006-07. This amendment is effective only through 7/1/07. ARM 10.22.102 will be amended at that time to return to the original language.

10.22.204 BUDGET AMENDMENT LIMITATION (1) and (1)(a) remain the same.

(b) Divide the amount determined in (1)(a) by the prior fiscal year enrollment used to calculate ~~current fiscal year~~ budgeted ANB in accordance with 20-9-311, MCA, and ARM 10.20.102. The resulting per-pupil cost is the maximum permissible per-pupil expenditure for the budget amendment.

(c) Determine the total enrollment increase for the current year in accordance with ARM 10.20.105(1)(a) through (c). The enrollment count for the current year that will be used to calculate an increase in enrollment will be the October enrollment count as reported to OPI on the fall report (~~FR-4~~) or, for petitions received after February 1, the February count reported to OPI on the spring enrollment report.

(d) through (2) remain the same.

AUTH: 20-9-102, MCA

IMP: 20-9-165, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.23.102 FUNDING THE BASE BUDGET LEVY (1) through (1)(b) remain the same.

(c) ~~state and county equalization aid~~ direct state aid;

(d) remains the same.

(e) qualified educator payments;

(f) Indian Education for All payments deposited into the general fund;

(g) at-risk student payments;

(h) American Indian student achievement gap payments;

(~~e~~) (i) nonlevy revenue; and

(~~f~~) (j) reappropriated fund balance.

(2) through (4)(b) remain the same.

AUTH: 20-9-102, MCA

IMP: 20-5-321, 20-5-322, 20-5-323, 20-5-324, 20-9-141, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined that it is reasonable and necessary to amend this rule to reflect the new general fund payments established under SB 1, 2005 Special Session Laws.

10.23.103 VOTED AMOUNT (1) remains the same.

(2) Except as provided in (3), if adopting a general fund budget that exceeds the ensuing year's maximum general fund budget and is within limits of 20-9-308, MCA, the trustees must obtain voter approval for any amount budgeted above the ensuing year's maximum budget.

(3) For FY 2005-06 and FY 2006-07, the trustees adopting a general fund budget that exceeds the ensuing year's maximum general fund within the limits of 20-9-308, MCA, must obtain voter approval for the amount budgeted above the greater of:

(a) the ensuing year's maximum budget; or

(b) the sum of the BASE, plus the previous year's over-BASE levy amount, plus the fund balance reappropriated available to fund the over-BASE budget, plus the prior year's excess reserves used to fund the over-BASE budget, plus the estimated tuition revenues used to fund the over-BASE.

AUTH: 20-9-102, MCA

IMP: 20-9-353, MCA

Statement of Reasonable Necessity: The Superintendent of Public Instruction has determined it is reasonable and necessary to amend this rule to implement the temporary voting requirements passed in HB 624 in the 2005 Session Laws.

10.23.104 RETIREMENT LEVIES (1) through (2)(b) remain the same.

(i) the difference between the statewide mill value per ANB as defined in ARM 10.15.101 and the county mill value per ANB as defined in ARM 10.15.101 multiplied by the sum of all the county's elementary or high school budgeted ANB that is being used to calculate the districts' direct state aid for the school year for which the GTB funding is being sought.

(3) through (4)(b) remain the same.

AUTH: 20-9-102, 20-9-369, MCA

IMP: 20-9-368, 20-9-501, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.23.108 ANB AND BASIC ENTITLEMENT CALCULATIONS IN ANNEXATIONS AND CONSOLIDATIONS (1) remains the same.

(a) Enrollment used to calculate the budgeted ANB of the school district that remains after the consolidation or annexation will be the enrollments of the separate school districts operating in the prior year, calculated as separate budget units.

(i) remains the same.

(ii) The enrollment of a district operating a school in the previous year that is subsequently closed when the districts are consolidated or annexed will be ~~counted~~

for used in calculating current ANB and three-year ANB the first year the consolidation or annexation is effective. After the first year, the actual enrollment of the combined district will be used to calculate ANB closed school will be factored into ANB calculations using a zero enrollment amount in calculating three-year ANB by budget unit.

(b) and (i) remain the same.

(ii) The basic entitlement of a district operating a school in the previous year that is subsequently closed when the districts are consolidated or annexed will be calculated the first year using the enrollment for the prior year as a factor in determining the current ANB and three-year ANB for budgeting purposes. After the first year, the basic entitlement will be ~~the minimum basic entitlement in 20-9-306(6)(a) or (6)(b), MCA~~ calculated using enrollment of zero for the closed budget unit in the calculation of current ANB or three-year ANB to determine the budgeted ANB under 20-9-311, MCA.

(iii) The basic entitlement for a district which continues to operate a school after the districts are consolidated or annexed will be calculated using the enrollment used for budgeted ANB.

(c) and (d) remain the same.

AUTH: 20-9-102, MCA

IMP: 20-9-308, 20-9-311, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.30.403 TRANSITION TO K-12 DISTRICTS (1) through (4)(b) remain the same.

(i) The ratio for prorating the BASE budget levy will be determined in the following manner:

Calculation of ratio for proration of GTBA budget area

	Elem.	H.S.	K-12
(A) 80% of Basic Entitlement	—	—	—
(B) 80% of Per-Student Entitlement	—	—	—
(C) Special Education Allowable			
Cost Payments:			
(I) Allowable costs, including disproportionate cost reimbursement times (Elementary <u>current</u> ANB divided by total K-12 ANB)	—		
(II) [Allowable costs, including disproportionate cost reimbursement times (High School <u>current</u> ANB divided by total K-12 <u>current</u> ANB)]		—	
(III) Total K-12 allowable cost payments			—
(D) Related Services Payment to			

Co-op	—	—	—
(E) 40% of Special Education Allowable Costs & Related Services Payment to Co-op [40 times (C)+(D)]	—	—	—
(F) BASE Budget Limit [(A)+(B)+(C)+(E)]	—	—	—
(G) Direct Aid Payment [(A+B) times the direct state aid percentage in 20-9-306, MCA]	<u>G1</u>	<u>G2</u>	<u>G3</u>
(H) GTBA Budget Area [(F)-(G)-(C)]	<u>H1</u>	<u>H2</u>	<u>H3</u>
(I) Prorated GTBA Budget Area	<u>H1/H3</u>	<u>H2/H3</u>	<u>100%</u>

(ii) through (6) remain the same.

AUTH: 20-3-106, MCA

IMP: 20-6-702, 20-6-703, 20-6-711, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.30.406 EXCEPTIONS TO HIGH SCHOOL PROVISIONS (1) remains the same.

(a) The retirement fund of a K-12 district will be a high school retirement fund, and the eligibility for guaranteed tax base aid will be determined based on the high school mill value per ANB. The guaranteed tax base aid payment for the high school retirement fund will be awarded to a county with a K-12 district using the number of high school budgeted ANB in the county plus the elementary budgeted ANB of any K-12 district in the county times the statewide subsidy per mill per ANB as calculated by the office Superintendent of Public Instruction. The guaranteed tax base aid payment for the elementary retirement fund will be awarded to a county with a K-12 district using the number of elementary budgeted ANB from elementary districts in the county, but not including the elementary ANB from any K-12 districts in the county. However, the calculations for the statewide and the county mill value per ANB will utilize the elementary budgeted ANB of the K-12 district for the statewide and county elementary calculation and the high school budgeted ANB of the K-12 district for the statewide and county high school calculation.

(b) through (d) remain the same.

AUTH: 20-3-106, MCA

IMP: 20-6-702, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

10.30.415 DISSOLUTION OF K-12 DISTRICTS (1) and (1)(a) remain the same.

(b) To determine prior year ANB for the elementary and high school portions of the dissolved K-12 district to be used to calculate spending limitations for the consolidated district(s), use budgeted ANB per elementary portion and budgeted

ANB per high school portion of the K-12 from the prior year.

AUTH: 20-3-106, MCA

IMP: 20-6-704, MCA

Statement of Reasonable Necessity: See statement following ARM 10.10.301.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted by mail to the Superintendent of Public Instruction, P.O. Box 202501, Helena, Montana 59620-2501, or by e-mail to opirules@mt.gov and must be received no later than 5:00 p.m. on December 7, 2006.

6. Catherine K. Warhank, OPI Chief Legal Counsel, has been designated to preside over and conduct the hearing.

7. The State Superintendent of Public Instruction maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the State Superintendent. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding school finance or other school related rulemaking actions. Such written request may be mailed or delivered to Legal Division, Office of Public Instruction, P.O. Box 202501, Helena, Montana 59620-2501, faxed to the office at (406) 444-2893, or may be made by completing a request form at any rules hearing held by the Superintendent of Public Instruction.

8. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled. The requirements of 20-1-501, MCA, have been fulfilled. Copies of these rules have been sent to all tribal governments in Montana.

/s/ Linda McCulloch

Linda McCulloch

State Superintendent of Public Instruction

/s/ Catherine K. Warhank

Catherine K. Warhank

Rule Reviewer

Certified to the Secretary of State October 30, 2006.